

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF LOUISIANA
LAFAYETTE DIVISION

STATE OF ARIZONA, et al.,)

)

Plaintiffs,)

)

v.) Civil Action

) No. 6:22-cv-01130

MERRICK GARLAND, in his)

official capacity as)

Attorney General of the)

United States, et al.,)

)

Defendants.)

)

30(b)(6) VIDEOCONFERENCE DEPOSITION OF ANDREW ARTHUR
ON BEHALF OF STATE OF LOUISIANA

(Taken by Defendants)

Via Videoconference

Thursday, November 30, 2023

Reported in Stenotype by

Diane Pressley, Shorthand Reporter

Transcript produced by computer-aided transcription

APPEARANCES

ON BEHALF OF PLAINTIFFS:

SCOTT ST. JOHN, Esquire
Louisiana Department of Justice
1885 N. Third Street
Baton Rouge, Louisiana 70802
(225) 326-6766
StjohnJ@ag.louisiana.gov

ON BEHALF OF DEFENDANTS:

ERIN T. RYAN, Esquire
U.S. Department of Justice
Civil Division
District Court Section
P.O. Box 868, Ben Franklin Station
Washington, DC 20044
(202) 532-5802
Erin.t.ryan@usdoj.gov

ALSO PRESENT:

SYDNEY JACKSON
MARIA LATIMER

30(b)(6) ZOOM VIDEOCONFERENCE DEPOSITION OF ANDREW
ARTHUR ON BEHALF OF STATE OF LOUISIANA, a witness called
on behalf of Plaintiffs, before Diane Pressley, Notary
Public, in and for the State of North Carolina, all
parties appearing via videoconference, held on Thursday,
November 30, 2023, commencing at 11:01 a.m.

1 A. Under Plyler vs. Doe, all school aged students
2 below the college level have to be provided an
3 education. The Department of Education and the
4 Department of Justice Civil Rights Division they've
5 actually sent letters to the states informing them that
6 they don't have the ability to inquire into the
7 immigration status of individuals or parents of
8 individuals who are registering for school in the
9 states. And that includes asking for a social security
10 number if one is not provided.

11 Q. So that's a no to my question?

12 A. I'm sorry, Counsel?

13 Q. My question was a simple factual question, is
14 there a weighted category for immigrant students?

15 A. There is no way for the State of Louisiana to ask
16 about the immigration status of school students, so for
17 that reason there is not a weighted average. There is
18 the English language learner percentage.

19 Q. Where do you see that? Because I see five
20 categories: Economically disadvantaged. Career and
21 technical education weight. Students with disability.
22 Gifted and talented. And economy of scale weight.

23 There is no category for English as a second
24 language, is there?

25 MR. ST. JOHN: Objection. This is a

1 Q. So the Louisiana Department of Education you said
2 uses English language students as a proxy for
3 immigration students?

4 A. No, they don't. And let me be clear about that.

5 They agree to the fact that it could be a rough
6 proxy for immigrant students, but I can tell you that in
7 Jefferson Parish schools they do actually have those
8 newcomer programs that are specifically tailored toward
9 immigrants. As I mentioned before, the State of
10 Louisiana doesn't have the ability to inquire into the
11 immigration status of any of its students.

12 Q. Isn't French an important language in Louisiana?

13 MR. ST. JOHN: Objection. Beyond the scope.

14 BY MS. RYAN:

15 Q. Mr. Arthur?

16 A. With respect to French proficiency I believe that
17 there is a small minority of individuals who speak a
18 dialect of French, which is commonly referred to as
19 Cajun, but it is a very limited majority of individuals
20 who speak that as their primary language. In fact, I
21 don't even know if today there is anyone who speaks
22 Cajun as their sole language.

23 One of the things that I can tell you based upon
24 my experience as an immigration judge is that American
25 culture is pervasive and that English language fluency

1 Q. Okay.

2 A. As I mentioned before it's about 40 percent of
3 the Louisiana state budget.

4 Q. Has the cost of educational services for the
5 State of Louisiana changed since March of 2022?

6 A. Could you ask -- I apologize, Counsel, can you
7 ask the question again?

8 Q. Sure. The total amount of educational services
9 for the State of Louisiana has that changed in any way
10 since March of 2022?

11 A. In the new budgetary cycle the most recent budget
12 is actually higher.

13 Q. And do you know why it is higher?

14 MR. ST. JOHN: Objection. Beyond the scope.

15 A. I'm -- I would conclude that it's because more
16 students and more weighted students are entering the
17 school system.

18 BY MS. RYAN:

19 Q. Can you articulate any harm to the Minimum
20 Foundation Program that is only attributable to the IFR?

21 A. Because the State of Louisiana doesn't have the
22 ability to inquire into the citizenship status of the
23 students in the schools, that would be a very difficult
24 calculation to make.

25 However, the Department of Justice and the

1 Department of Homeland Security would actually have the
2 ability to make that assessment based upon the number of
3 students that they know are in the school district.

4 Q. But as you said --

5 A. The number of school districts in Louisiana.

6 Q. But as you said, the State of Louisiana doesn't
7 know immigration status so they can't articulate harm
8 directly attributable to the IFR?

9 A. Right. So with respect to the IFR there are a
10 couple of different things that would pose or that would
11 impose additional costs. Because under the IFR asylum
12 can be granted more quickly and because the IFR allows
13 for the parole of individuals pending credible fear
14 reviews, the number of people who show up at the border
15 and be released would increase.

16 In addition, it is my conclusion that the IFR
17 itself would create a magnet that would bring additional
18 individuals, foreign nationals to enter the United
19 States and then become noncitizens in this country.
20 Foreign nationals, by the way, for the record, refers to
21 individuals who are not citizens or nationals of the
22 United States.

23 Q. The testimony today is not your opinion, we're
24 speaking in the position of the 30(b)(b) for the State
25 of Louisiana.

1 With respect to qualified noncitizens there are
2 individuals who are qualified noncitizens without that
3 five year bar, and that includes individuals who have
4 been granted asylum.

5 It also includes Cuban and Haitian entrants who
6 have been paroled into the United States who have
7 pending asylum applications. So with respect to the
8 quicker adjudication of the asylum applications
9 noncitizens generally who are granted asylum more
10 quickly will be eligible for that SNAP benefit more
11 quickly.

12 To the degree that they are Cuban and Haitian
13 entrants, if they are paroled out of custody under the
14 terms of the IFR, they also would become immediately
15 eligible.

16 Particularly if they are paroled after they have
17 gone through the credible fear determination, because
18 under the IFR, and this is a break from the way that
19 it's always been done in the past, traditionally in
20 order for an individual to apply for asylum the
21 individual had to file what's called a Form-I589
22 application for asylum and for withholding of removal,
23 under the IFR the signed copy of the credible fear
24 determination, positive credible fear determination, is
25 a application for asylum.

1 And, again, that's a break from traditional
2 practice for as long as I know, and I've been doing this
3 for 32 years.

4 Q. Okay. So --

5 A. So by --

6 Q. Let me ask the question please.

7 A. I apologize.

8 Q. So the injury being alleged is that they will be
9 eligible for SNAP benefits faster under the IFR?

10 MR. ST. JOHN: Objection. I was going to
11 say incomplete recitation of his testimony, asked and
12 answered.

13 MS. RYAN: It's not asked and answered,
14 actually, Scott, because he didn't answer the question
15 directly.

16 BY MS. RYAN:

17 Q. So I'm just trying to summarize -- if I could
18 just get a quick response, what is the injury being
19 alleged?

20 MR. ST. JOHN: Counsel, he's entitled to
21 answer the question. I was able to pick out the
22 injuries that he recited. He gave you the explanation
23 for why there are injuries and he's entitled to give the
24 complete answer.

25 A. With respect to individuals who were granted

1 asylum more quickly they're going to become eligible for
2 SNAP benefits more quickly.

3 With respect to Cuban and Haitians entrants,
4 those individuals as soon as they pass the credible fear
5 screening and receive a positive credible fear
6 determination will have been deemed to have applied for
7 asylum, and therefore will become eligible. If they're
8 paroled from custody they're going to be eligible.

9 BY MS. RYAN:

10 Q. And what about for TANF, what injuries are
11 alleged in regards to that program?

12 A. With respect to -- with respect to SNAP, the
13 administrative cost of that program are born by the
14 State of Louisiana -- or actually, split between the
15 Federal Government, the United States Department of
16 Agriculture, and the State. So the more people who are
17 eligible for that, the more that the funding is going to
18 go up, or the more that the cost of the State of
19 Louisiana are going to go up. It's also going to draw
20 upon the time of employees that the Department of
21 Children and Family Services. DCFS and Louisiana is
22 unfortunately one of those agencies that has trouble
23 keeping employees, and so they have been -- you know,
24 they are short staffed and that imposes a tangible
25 impact on them.

1 With respect to TANF, Temporary Assistance to
2 Needy Families, the program in Louisiana is called
3 FITAP, which is Financial Independence Temporary
4 Assistance Program. Again, that one is fully funded by
5 the Federal Government including the administrative
6 cost, but with respect to the employee time that is
7 taken, again, those applications are adjudicated by
8 employees of the, of the DCFS, and so it will take their
9 time.

10 The government is actually, the State of
11 Louisiana is reimbursed for the time for those
12 individuals, but it takes them away from other
13 activities.

14 In addition, with respect to the application --

15 Do you want me to go through the application
16 process, because there actually will be cost there
17 associated with that now?

18 Q. Not at this moment, we'll go through it.

19 A. Okay. Please remind me to come back to that
20 because there are costs, because the interview process
21 for individuals who weren't fluent in English is
22 actually longer because they have to verify eligibility.

23 Q. Okay. So you said the FITAP program is fully
24 funded by the Federal Government including
25 administrative costs and they do get reimbursed for the

1 BY MS. RYAN:

2 Q. How many noncitizens released under the IFR are
3 enrolled in the SNAP program in Louisiana?

4 A. As I mentioned before, 8CFR 208.6 actually limits
5 the disclosure of information related to an individual
6 who has applied for asylum or has gone through a
7 credible fear review provision.

8 This is a -- so consequently the only thing that
9 the State of Louisiana is going to know is that an
10 individual has applied for asylum or has been paroled
11 into the United States with respect to the eligibility
12 for those people. That would be information that would
13 be within the knowledge of the Department of Justice and
14 the Department of Homeland Security.

15 Q. But they don't know under what program or policy
16 that person was paroled or granted asylum?

17 A. No, under the policy that is followed by the
18 State of Louisiana they don't inquire into which of
19 those things. The eligibility is a federal matter
20 rolled into state law and they comply with those
21 requirements.

22 Q. How many noncitizens released under the IFR are
23 enrolled in the FITAP program in Louisiana?

24 A. Again, as I mentioned before, 8CFR 208.6 is a
25 confidentiality provision. There's a separate

1 confidentiality provision 8CFR 1208.6, they mirror one
2 another, and they bar the disclosure of information
3 relating to asylum applicants, any information that the
4 asylum applicant provides, or with respect to credible
5 fear determinations, so that would be information that
6 would be known to the federal but not for the State of
7 Louisiana.

8 Q. I'm going to show a document, I believe we're up
9 to Exhibit F.

10 THE COURT REPORTER: That's correct.

11 (Exhibit F was marked for identification.)

12 MS. RYAN: If I start jumping around the
13 alphabet, please let me know.

14 BY MS. RYAN:

15 Q. Do you see this document on your screen?

16 A. I've got a blank screen.

17 Q. Okay. One second.

18 A. Yes, ma'am, I do.

19 Q. Okay. So this is a spreadsheet entitled Asylee
20 Issuance Amount with no Bates number.

21 Have you seen this document before?

22 A. I believe that I've seen that document before.

23 Q. And for the record, there's no Bates number but
24 it was produced to defendants on July 27, 2023.

25 What is this document?

1 the same case number repeated, the same individual ID
2 repeated, but with different payment amounts and
3 different payment dates, is that correct?

4 A. That is correct, Counsel.

5 Q. Okay. So these would be different payments to
6 this individual with this ID number?

7 A. As I understand the document. I didn't run the,
8 the document itself.

9 Q. Okay. And you said these are for asylees
10 generally?

11 A. This is the asylee issuance amount, yes.

12 Q. But that is not specific to asylees released
13 under the IFR?

14 A. There's no way for the State of Louisiana to know
15 which individuals were released under the IFR because it
16 doesn't differentiate with respect to the documents.

17 Louisiana doesn't request specific documents.
18 They request specific documents, but that can include a
19 employment code on a employment authorization document.
20 It can include a stamped version of a judge's order
21 granting asylum, so there's no way for the State of
22 Louisiana to know that. And they verify that through
23 the SAVE system.

24 Q. When somebody is eligible for SNAP you've
25 mentioned food assistance or you've mentioned like a

1 Q. Do they request a flat amount or is it per
2 person?

3 A. Per person, employee, beneficiary.

4 Q. Let me -- yeah, so let me break that for you.

5 So does the number of people enrolled in the
6 programs affect how much money they request from the
7 Legislature?

8 A. Based upon the statement that I made before with
9 respect to the administration of the SNAP program, it
10 would be the number of employees that they would need
11 with the amount of money that they received, that they
12 split with the federal with respect to SNAP.

13 With respect to FITAP those administrative costs
14 should be covered. But again, there's the employee time
15 part.

16 Q. So you mentioned the FITAP federal funding. Does
17 the Federal Government provide funding for SNAP
18 benefits?

19 A. It does. That is through the United States
20 Department of Agriculture. The administrative costs are
21 split.

22 Q. And is that money provided proactively for the
23 upcoming fiscal year or retroactively based on the
24 amount actually spent in the previous fiscal year?

25 MR. ST. JOHN: Objection. Beyond the scope.

1 upon the limited time of the employees that are
2 currently employed by DCFS.

3 Q. Let's -- just one moment.

4 (Recess was taken.)

5 BY MS. RYAN:

6 Q. You mentioned INMAR as the -- that's the type of
7 credit card that the state uses to provide its benefits
8 for SNAP and FITAP, correct?

9 A. That's the name of the contractor.

10 Q. Okay. Does Louisiana pay to license that
11 technology or is it a per user amount that you need to
12 pay for everyone who gets an INMAR card?

13 MR. ST. JOHN: Objection. Beyond the scope.

14 A. To the best of my knowledge, the contract with
15 INMAR is a flat fee. There is a fee that they pay based
16 upon reconsideration for the term of the contract.

17 BY MS. RYAN:

18 Q. Okay. Turning to Medicaid.

19 So in this lawsuit Louisiana is alleging that
20 they suffered injury to their Medicaid program as a
21 result of noncitizens released under the IFR coming to
22 Louisiana, correct?

23 A. That's correct, Counsel.

24 Q. Can you summarize what are the injuries that
25 Louisiana is claiming to its Medicaid program as a

1 result of the IFR?

2 A. With respect to Medicaid as with SNAP, and TANF,
3 or FITAP, United States citizens and nationals are
4 eligible for Medicaid assuming that they meet the
5 residency and qualification standards. There is an
6 exception for what's called emergency Medicaid for
7 individuals who need emergency medical care.

8 The -- with respect to noncitizens -- there are
9 qualified noncitizens and there are non --

10 Or there are nonqualified noncitizens and then
11 there are qualified citizens who are subject to a bar,
12 to a five year bar, again, similar to the ones that
13 apply to SNAP and TANF.

14 Individuals who have been -- who are qualified
15 noncitizens who have green cards or fall within other
16 categories have to wait five years before they're
17 eligible for the benefits.

18 With respect to other noncitizens, including
19 asylees and Cuban and Haitian entrants, they are
20 eligible for those benefits as soon as they attain those
21 statuses. So the more quickly that a applicant, an
22 alien applicant receives the benefit the more quickly
23 they're going to be eligible to draw upon the Medicaid
24 program.

25 Same is true with respect to the release of Cuban

1 and Haitian entrants either on parole or, which again is
2 impacted by the IFR, or the filing of the asylum
3 application, which again is going to also be impacted by
4 the change by the waiving of the I-589 Rule in the IFR.

5 Q. What are the different types of Medicaid programs
6 that the State of Louisiana offers?

7 A. So they offer emergency Medicaid, which I
8 referenced before. They also reference -- they also
9 offer CHIP, the Children's Health Insurance Program.

10 In fact, they offer expanded CHIP for certain
11 nonqualified, non -- or for certain qualified
12 noncitizens not subject to the bar.

13 Emergency -- there's also CHIP Level 4, which is
14 something that's available to pregnant women.

15 Q. So there's regular expansion, CHIP, and
16 emergency?

17 A. Yes. And then there's also a Affordable Care Act
18 one that is an expanded Medicare program.

19 Q. And which portions of those -- strike that.

20 Which portions of the Medicaid program is
21 Louisiana claiming injury to as a result of the IFR?

22 A. With respect to regular Medicaid, with respect to
23 expanded Medicaid, and with respect to the CHIP program.

24 Again, if an individual receives asylum status
25 they are eligible to petition under Section 2A, the INA,

1 You can answer.

2 A. If they are Cuban or Haitian entrants then they
3 immediately become qualified for Medicaid.

4 BY MS. RYAN:

5 Q. And if they're not?

6 A. If they're not Cuban and Haitian entrants?

7 All with respect to that, again, there is the --
8 there is an Afghani, Iraqi provision, there is a
9 Ukrainian provision, but with respect to all other
10 individuals they are subject to the five year bar until
11 they're granted asylum.

12 Q. And once they're granted asylum they are
13 automatically qualified?

14 A. Once --

15 MR. ST. JOHN: Objection. Best Evidence
16 Rule.

17 A. Once they're granted asylum they're automatically
18 eligible.

19 BY MS. RYAN:

20 Q. And what about parolees, are they qualified or
21 nonqualified?

22 MR. ST. JOHN: Objection. Best Evidence
23 Rule.

24 A. Parolees are qualified noncitizens provided that
25 they've been paroled for a year or more, subject to the

1 five year bar. And, of course, the Cuban and Haitian
2 parolees, as I mentioned before.

3 BY MS. RYAN:

4 Q. Right. But if they're not of a specific
5 nationality that is excluded from the five year bar
6 parolees are eligible after a five year wait if their
7 parole is for one year or longer?

8 MR. ST. JOHN: Objection. Best Evidence
9 Rule. Calls for testimony about a question of law.

10 You can answer.

11 A. The State of Louisiana follows the standards that
12 are set forth in a document issued by the Department of
13 Health. The I-300, it's I-300, that's it, and they
14 complied with those requirements with respect to
15 qualified and nonqualified noncitizens.

16 Again, with the exception of CHIP, but you
17 haven't asked me about CHIP, we can talk about that.

18 Q. Yes, we'll get there.

19 The conditions of eligibility for expansion
20 Medicaid, are they the same or different than for
21 regular Medicaid?

22 MR. ST. JOHN: Same objection.

23 A. Yeah, the State of Louisiana follows the ACA with
24 respect to eligibility for expanded Medicaid. But with
25 respect to eligibility, again, the same eligibility

1 standards apply.

2 BY MS. RYAN:

3 Q. So you said they follow the rules, but my
4 question is, is it the same eligibility for regular
5 Medicaid and expansion Medicaid, or are they different?

6 A. Well --

7 MR. ST. JOHN: Same objection.

8 Give me a potato before you start answering,
9 okay? Just so we can make sure we get the objection in.

10 A. With respect to the income standards they are
11 lower between expanded Medicaid and regular Medicaid.
12 But again, they're all set forth in federal statute.

13 BY MS. RYAN:

14 Q. And what are the conditions of eligibility for
15 CHIP?

16 MR. ST. JOHN: Same objection.

17 A. With respect to CHIP, CHIP is administered for
18 children under the age of 19, except for CHIP Level 4,
19 which applies to pregnant women. And again, those are
20 all set forth in the Federal Law with respect to the
21 eligibility for it.

22 BY MS. RYAN:

23 Q. And does the immigration status impact
24 eligibility for CHIP like it does for regular and
25 expansion Medicaid?

1 A. That is correct, Counsel.

2 Q. Is there a specific part of the Department of
3 Health that is responsible for the administration of
4 these programs?

5 A. So there is a Medicaid director within the
6 Department of Health.

7 Q. Are all these Medicaid programs administered
8 within that same department or are they separate like
9 SNAP and FITAP were?

10 A. They're administered within the same department,
11 to the best of my knowledge.

12 Q. How many noncitizens released under the IFR are
13 enrolled in Medicaid in Louisiana?

14 A. With respect to that information, again, 8CFR
15 Section 208.6 and 8CFR Section 1208.6, bar the
16 disclosure of information related to asylum applications
17 and with respect to individuals who have applied for
18 credible fear. The State of Louisiana doesn't have the
19 ability to determine that.

20 However, there is a company called
21 Gainswell(phonetic), which is a financial intermediary
22 that provides information about the individuals who
23 receive Medicare in the State of Louisiana back to the
24 Center for Medicaid and Medicare services, which is not
25 called CMMS, but CMS. So that is information that is

1 available to the Department of Health and Human
2 Services, and available to the Department of Justice,
3 and the Department of Homeland Security.

4 Q. Can you repeat the name of that company you
5 mentioned?

6 A. Gainswell. Gainwell. Gainwell Technology.

7 Q. And can you spell that for the record?

8 A. G-A-I-N-W-E-L-L, I believe.

9 Q. And you said it reports back to the State of
10 Louisiana about the individuals receiving Medicaid?

11 A. Other way around. It reports back to -- they're
12 the financial intermediary between HHS and the State, so
13 they report back to HHS.

14 Q. And where did you get that information from?

15 A. I obtained that information through conversations
16 that I've had with employees of the Department of
17 Health.

18 Q. So my question was whether the state can identify
19 the number of people released under the IFR who are
20 using Medicaid. Are you implying that this company
21 would somehow know that information?

22 A. No, they would report back on the individuals who
23 have been granted Medicaid, that information would then
24 go to the Federal Government, and the Federal Government
25 could verify the how those individuals obtained asylum

1 status, the reasons for which they were paroled.

2 Q. So the --

3 A. But the State of Louisiana wouldn't have access
4 to the information about the individuals with respect to
5 the IFR because the only thing that they look at is the
6 status of the individual of the noncitizen qualified or
7 not qualified subject to five year bar.

8 Q. When an individual is eligible for Medicaid, do
9 they receive a payment like the SNAP and FITAP program
10 or is it similar to a health insurance where it would
11 pay out claims if they need to receive medical
12 treatment?

13 A. Louisiana actually does it both ways, so they
14 have what's called a fee for service or FFS, which is
15 somebody goes to the hospital, they receive the
16 treatment, Louisiana gets billed with that, for that.

17 With respect to other individuals, there are six
18 managed care organizations that the State of Louisiana
19 contracts for that provided medical services and that's
20 on a per member, per month basis. PMPM is what it's
21 called.

22 Q. PMPM. So if they're eligible for Medicaid they
23 are a member of these managed care facilities?

24 A. They're not facilities, they're organizations.
25 MCOs is what they're called, and basically the MCO

1 contained, let's see, it would have been in 2021. It
2 would have been done in 2023, I believe that the amount
3 of money for administrating the Medicaid program has
4 gone up, but it should be in the budget documents.

5 Q. Are you able to articulate any specific harm to
6 the Medicaid program that's only attributable to the
7 IFR?

8 A. It would be the amount of money that the State of
9 Louisiana would have to pay as its part of the FMAP with
10 respect to that. In addition, medical care, of course,
11 is a limited quantity as we all saw during COVID. So
12 the more people that draw upon the medical system it's
13 going to have a direct impact upon all people who seek
14 medical services.

15 Q. But couldn't that generally be about immigrants
16 in the state and not specific to the IFR?

17 A. To the degree that individuals are granted asylum
18 more quickly, to the degree that they are Haitian and
19 Cuban entrants who are released either because they
20 filed asylum applications or under the parole provision
21 in the IFR, that would actually be a real affect.

22 Q. But if you are unable to know which individuals
23 came in under the IFR because of the CFR cites you have
24 provided, how can the state say these harms are
25 attributable only to the IFR?

1 A. We could project it out based upon the number of
2 people -- we can't project out the number, but we can
3 project out that there would be an affect based upon
4 more people becoming eligible for asylum more quickly.

5 Currently for non-detained cases people wait
6 about four years according to track the transactional
7 record access clearinghouse at Syracuse University.

8 The IFR sets a goal of completion by the asylum
9 officer within 60 days, so, you know, that's a much more
10 quick process.

11 Moreover, as I think as I noted before, under
12 Section 208 of the INA foreign nationals who are granted
13 asylum, or actually noncitizens in this context who are
14 granted asylum, can petition for immediate family
15 members to follow to join.

16 Q. But you don't know if any individuals under the
17 IFR are even in Louisiana so you don't know if they're
18 using the Medicaid program?

19 A. Well, I know that Louisiana was actually one of
20 the spots that was specified for the initial rollout of
21 the asylum officer rule, and we know from documents from
22 the Department of Homeland Securities asylum process in
23 rule cohort that six individuals have been subject to
24 the IFR in the State of Louisiana. We know that four of
25 those individuals were actually referred to an

1 immigration judge, the two of the others had their case
2 administratively closed.

3 Honestly, Ms. Ryan, I don't understand the
4 administrative closure part because there's nothing in
5 the IFR that allows for administrative closure. But we
6 also know that there are asylum applicants within the
7 State of Louisiana.

8 Q. Just to clarify, you've said multiple times in
9 this deposition that you are unable to know whether
10 these asylum seekers, these asylees, were released or
11 granted asylum under the IFR, correct? You said that
12 multiple times during this deposition.

13 A. That's correct, Counsel, because that's not
14 something --

15 Q. Okay. So --

16 A. -- that would be knowable to the State of
17 Louisiana.

18 Q. Exactly, so it is not knowable whether the person
19 came in or was released under the IFR, so how can you
20 say that you have specific harms to the Medicaid program
21 specific to people coming in under the IFR?

22 A. With respect to that, we could project out the
23 more quickly people are granted asylum.

24 Q. I didn't ask about projections, Mr. Arthur. I
25 asked if you can articulate a specific harm to the

1 Medicaid program from the IFR?

2 A. With respect --

3 THE WITNESS: You're on mute.

4 MR. ST. JOHN: Counsel, please speak
5 respectfully to the witness. It's misleading to suggest
6 it has to be a past harm. He is testifying about a
7 harm. Please let the witness answer the question.

8 You can answer, Mr. Arthur.

9 A. With respect to the quantum of harm to the State
10 of Louisiana, because the State of Louisiana has no way
11 of knowing which of those people have been subject to
12 the IFR, only the Federal Government only in this
13 situation CMS, HHS, DOH, DHS would actually know the
14 number of individuals who have come into Louisiana who
15 would have applied for those benefits within the State
16 of Louisiana. There's no special code that appears on
17 the employment documents for those individuals. It's an
18 unknowable fact, but it is one that's in the possession
19 of the Federal Government of the executive branch.

20 BY MS. RYAN:

21 Q. Switching to general state topics.

22 Are you able to say how many noncitizens released
23 under the IFR have established residence in Louisiana?

24 A. As I think I mentioned before, with respect to
25 that I can tell you that there are individuals who are

1 processed in Louisiana under the IFR. I know that two
2 of those individuals cases were administratively closed.

3 With respect to other individuals who have
4 relocated within Louisiana after being granted benefits
5 from the IFR, I can't tell you. But I can tell you that
6 the only individual that would know that, the only
7 entity that would know that, would be the executive
8 branch.

9 Q. I'm showing you what will be marked as Exhibit F,
10 I believe. H. I'll pull it up here.

11 (Exhibit H was marked for identification.)

12 A. And if I could just to clarify the statement that
13 I made before. The DHS asylum processing rule cohort is
14 only current to April of 2023.

15 BY MS. RYAN:

16 Q. I'm sorry, you cut out at the beginning, can you
17 just repeat the beginning of your answer for that?

18 A. I apologize. The DHS asylum processing cohort
19 is only current through April of 2023. It was last
20 issued in October of 2023, but it's not current.

21 Q. Okay. Do you see a document on your screen?

22 A. I do.

23 Q. Okay. Scrolling down.

24 One second. I don't know why it's -- let me try
25 that again.